

REMARKS

The Office Action of May 4, 2005, that was made final, has been carefully considered. Claims 1-30 are pending in the application.

Claims 2, 9, and 15 were objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 1-7 were objected to under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,261,097 to Saxon (hereinafter referred to as the Saxon reference) in view of US Patent No. 5,911,066 to Williams et al. (hereinafter referred to as the Williams reference).

Claims 14-16, 18-26, and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,141,793 to Bryant et al. (hereinafter referred to as the Bryant reference) in view of the Saxon reference.

Claims 7 and 11-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Saxon reference in view of the Williams reference, and in further view of U.S. Patent No. 528,722 B1 to Shaylor (hereinafter referred to as the Shaylor reference).

Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view of the Saxon reference and further in view of the Shaylor reference.

Claims 28, 29, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view the Saxon reference, and further in view of the Williams reference.

1 In overview, the objections have been overcome and the rejections have
2 been traversed in view of the following remarks. Claims 1, 3-7 have been
3 amended for clarification to overcome the objections. Claims 2, 9, and 15 have
4 been canceled. The Applicant respectfully requests reconsideration and allowance
5 of the subject application. This Amendment is believed to be fully responsive to
6 all issues raised in the Office Action dated May 4, 2005.

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8 **Claim Objections Under 37 CFR 1.75(c)**

9 Claims 2, 9, and 15 were objected to under 37 CFR 1.75(c) as being of
10 improper dependent form for failing to further limit the subject matter of a
11 previous claim. In order to expedite prosecution, claims 2, 9 and 15 have been
12 canceled. Therefore, the Applicant respectfully requests withdrawal of this
13 objection.

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15 **Claim Objections Under 35 USC §112, second paragraph**

16 Claims 1-7 were objected to under 35 U.S.C. §112, second paragraph, as
17 being indefinite. Claims 1, 3-7 have been amended as recommended by the
18 Examiner. Therefore, the Applicant respectfully requests withdrawal of this
19 objection.

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21 **Claim Rejections Under 35 USC §103(a)**

22 Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as being
23 unpatentable over the Saxon reference in view of the Williams reference. Claims
24 14-16, 18-26, and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable
25 over the Bryant reference in view of the Saxon reference. Claims 7 and 11-13

were rejected under 35 U.S.C. §103(a) as being unpatentable over the Saxon reference in view of the Williams reference, in further view of the Shaylor reference). Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view of the Saxon reference and further in view of the Shaylor reference. Claims 28, 29, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Bryant reference in view the Saxon reference, and further in view of the Williams reference. For at least some of the reasons that follow, the Applicant respectfully disagrees that the subject matter of the above claims is obvious given the above cited references.

In overview, as stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Further, as stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere

1 fact that references can be combined or modified does not render the resultant
2 combination obvious unless the prior art also suggests the desirability of the
3 combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

4 Therefore, "all words in a claim must be considered in judging the
5 patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 165
6 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35
7 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837
8 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

9 With this legal framework in mind, the Applicant traverses each of the
10 rejections.

11 12 **Rejection of Claims 1-6 and 8-10**

13 Claims 1-6 and 8-10 were rejected under 35 U.S.C. §103(a) as being
14 unpatentable over the Saxon reference in view the Williams reference. Claims 1
15 and 8 are both independent claims. Claims 2 and 9 have been canceled.

16 With respect to Claim 1, the Examiner contends that the Saxon reference
17 describes "instantiating a queue for holding messages..." at Col. 4, lines 16-18.
18 However, upon a closer review of the Williams reference, one will see that the
19 Saxon reference describes "a program 146 for creating threads of execution and a
20 program 146 for executing 'wait' instructions, such as an instruction to wait for
21 the completion of a program or thread of execution." Col. 3, lines 3-6. The Saxon
22 reference further teaches that "all the threads share the address space of the user
23 process, and therefore the programs running in these threads can communicate
24 with one another." Col. 3, lines 8-10. The Saxon reference then further describes
25 parameters that may be passed by the invoking thread to the invoked thread for use

1 as input by the new thread or output from the new thread. Col. 4, lines 16-18.
2 Because "the parallel threads share a common address space," the variables,
3 "which will be shared by two or more threads, will be treated as global variables."
4 Col. 4, lines 20-23. Thus, the portion cited by the Examiner describes the use of
5 global variables. Saxon's teaching of using a global variable does not teach
6 having a "queue for holding messages" as recited in claim 1. In addition, the
7 portion (Col. 4, lines 16-20) cited by the Examiner also fails to teach "instantiating
8 a message at the first thread of execution" as recited in claim 1. Rather, the
9 Examiner cites the same description of the global variables again. Thus, the
10 Examiner contends that the global variables teach both having "a queue for
11 holding messages" and for "instantiating a message". However, these are two
12 separate elements and can not possibly be taught by a general description of global
13 variables.

14 The Applicant agrees with the Examiners contention that Saxon is silent
15 with reference to "placing, by the first thread of execution a reference to the
16 message in the queue of the second thread of execution wherein the reference is
17 usable by the second thread of execution to access the message." However, the
18 Applicant disagrees with the Examiner's contention that the Williams reference
19 teaches placing a reference to the message in the queue of the second thread. As
20 stated in our prior responses, the Williams reference does not even describe having
21 a thread, queue, or message. In addition, the Applicant disagrees with the
22 Examiner's contention that there is some teaching, suggestion, or motivation to
23 combine these references found either in the references themselves or in the
24 knowledge generally available to one of ordinary skill in the art. The Examiner
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1 can not use the description of the present application to suggest that it now would
2 be obvious to combine these unrelated teachings.

3 With respect to independent Claim 8, the Examiner again cites the portion
4 in the Saxon reference describing one or more global variables for teaching
5 "creating a first queue for the first scripting thread" as recited in Claim 8.
6 Without repeating the above arguments, the Applicant disagrees that a description
7 of global variables teaches a queue. The Applicant does agree with the Examiner
8 that the Saxon reference is silent regarding "passing, to the second scripting
9 thread, a reference to the first scripting thread's queue for use by the second
10 scripting thread to send messages to the first scripting thread." However, similar
11 to the argument above, the Applicant disagrees that the Williams reference teaches
12 this limitation and disagrees that there is motivation to combine these references.

13 Thus, in summary, the Examiner has not cited any reference that teaches or
14 suggests the claimed invention. In fact, even if all of these references could be
15 combined, their teachings could not possibly suggest the present invention. In
16 addition, there is no suggestion or motivation to combine these references. Thus,
17 for at least one of the above reasons, the Applicant contends that the Saxon
18 reference, whether considered alone or with any permissible combination of prior
19 art of record, does not teach or suggest each limitation recited in independent
20 Claims 1 and 8. Therefore, the Applicant respectfully submits that the §103
21 rejections of independent Claims 1 and 8 is improper, and respectfully requests
22 reconsideration and withdrawal of this rejection.

23 Furthermore, the dependent Claims 3-6 of Claim 1 and dependent Claim 10
24 of Claim 8 include other limitations that are not taught or suggested by the prior art
25 of record. Therefore, for at least the above reasons, Applicant respectfully submits

1 that the §103 rejections of dependent Claims 3-6 and 10 is improper, and respectfully
2 requests reconsideration and withdrawal of this rejection.

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4 **Rejection of Claims 14-16, 18-26, and 27**

5 Claims 14-16, 18-26, and 27 were rejected under 35 U.S.C. §103(a) as
6 being unpatentable over the Bryant reference in view of the Saxon reference.
7 Claims 14, 18, and 26 are all independent claims. Claim 15 has been canceled.

8 With respect to independent Claim 14, the Examiner contends that the
9 Bryant reference teaches "a method for compiling a program having a plurality of
10 sections" and "creating a scripting thread for compiling each section". Col. 6,
11 lines 23-55. The Applicant respectfully disagrees. The Bryant reference is
12 directed at a method for increasing the performance of interpreted languages in
13 application software, as described in the Summary. To best understand the Bryant
14 reference, it is helpful to understand the problem that it was attempting to solve.
15 The problem, as described in the background section of the Bryant reference, is
16 that when Perl code is used in a cgi-bin script, the perl code must be compiled
17 every time the cgi-bin script is run. Col. 2, lines 8-10. The cgi-bin is a library of
18 cgi scripts applications that can be executed by a HTTP server. Col. 1, lines 55-
19 56. Therefore, the Bryant reference teaches to move the code that was in
20 individual cgi-bin scripts into one Perl server daemon process. Col. 6, lines 64-65.
21 Thus, the individual cgi-bin scripts are replaced by an object file. The Perl server
22 forks itself creating a child process that runs the already compiled code for the
23 specific cgi-bin script. Col. 6, lines 47-49. Thus, the above portion (Col. 6, lines
24 23-56) cited by the Examiner does not teach "creating, for each section of the
25 program, a scripting thread that executes a script for compiling the section,

1 wherein the script is independent of the program," as recited in Claim 14. The
2 above cited portion actually teaches the opposite, to combine all the scripts into
3 one process. In addition, the above cited portion does not teach that the "script is
4 independent of the program". Rather, the above cited portion teaches that the
5 program is the individual scripts.

6 The Applicant agrees with the Examiner's contention that the Bryant
7 reference is silent with reference to "creating a control thread to asynchronously
8 communicate with each of the scripting threads so that commands can be issued
9 from the control thread to the scripting threads in parallel" as recited in Claim 14.
10 However, the Applicant disagrees with the Examiner's contention that the Saxon
11 reference teaches this. The Saxon reference, described above, does not teach
12 issuing commands to the scripting threads in parallel. Rather, the Saxon reference
13 teaches to spawn one or more child processes and then wait for their completion if
14 necessary. Status may be returned from each of the child processes using global
15 variables. In addition, the Applicant disagrees with the Examiner's contention
16 that there is some teaching, suggestion, or motivation to combine these references
17 found either in the references themselves or in the knowledge generally available
18 to one of ordinary skill in the art. Again, the Examiner can not use the description
19 of the present application to suggest that it now would be obvious to combine
20 these unrelated teachings.

21 With respect to independent Claims 18 and 26, the Examiner again cites the
22 portion in the Bryant reference describing combining the individual cgi-bin scripts
23 into one process so that any cig-bin scripts written in Perl do not need to be
24 executed each time it is requested. Therefore, without repeating the above
25 arguments, the Applicant respectfully disagrees with the Examiner for the reasons

1 described above. Therefore, the Bryant reference does not teach "a script for
2 compiling each section of the program, wherein the script is independent of the
3 program", "wherein each section of the program is compiled under the direction of
4 the script executed by a scripting thread of the plurality", and "a control thread
5 executing on the computer for coordinating the activity of the scripting threads by
6 communicating asynchronously with the scripting thread" as recited in
7 independent Claim 18. Likewise, the Bryant reference does not teach each of the
8 limitations in independent Claim 26, such as "a script for compiling each section
9 of the program, wherein the script is independent of the program", and "the
10 control thread sends messages asynchronously to each of the plurality of scripting
11 threads to coordinate their activities."

12 Thus, in summary, the Examiner has not cited any reference that teaches or
13 suggests the claimed invention. In fact, even if all of these references could be
14 combined, their teachings could not possibly suggest the present invention. In
15 addition, there is no suggestion or motivation to combine these references. Thus,
16 for at least one of the above reasons, the Applicant contends that the Bryant
17 reference, whether considered alone or with any permissible combination of prior
18 art of record, does not teach or suggest each limitation recited in independent
19 Claims 14, 18, and 26. Therefore, the Applicant respectfully submits that the §103
20 rejections of independent Claims 14, 18, and 26 is improper, and respectfully
21 requests reconsideration and withdrawal of this rejection.

22 Furthermore, the dependent Claims 16-17 of Claim 14, dependent Claims 19-
23 25 of Claim 18, and dependent Claim 27 of Claim 26 include other limitations that
24 are not taught or suggested by the prior art of record. Therefore, for at least the
25 above reasons, Applicant respectfully submits that the §103 rejections of dependent

1 Claims 16-17, 19-25, and 27 improper, and respectfully requests reconsideration and
2 withdrawal of this rejection.

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4 **Rejection of Claims 7 and 11-13**

5 Claims 7 and 11-13 were rejected under 35 U.S.C. §103(a) as being
6 unpatentable over the Saxon reference in view of the Williams reference, in
7 further review of the Shaylor reference. Claim 7 is dependent on independent
8 Claim 1 and Claims 11-13 are dependent on independent 8.

9 Without repeating the argument above for independent Claims 1 and 8, the
10 Applicant reiterates that the Saxon reference fails to teach or suggest the
11 limitations in both of these independent Claims. In addition, there is no
12 suggestion or motivation to combine the Shaylor reference with the Saxon
13 reference. Thus, for at least one of the above reasons, the Applicant contends that
14 the Saxon reference, whether considered alone or with any permissible
15 combination of prior art of record, does not teach or suggest each limitation recited
16 in Claims 7 and 11-13. Therefore, the Applicant respectfully submits that the
17 §103 rejections of Claims 7 and 11-13 is improper, and respectfully requests
18 reconsideration and withdrawal of this rejection.

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20 **Rejection of Claim 17**

21 Claim 17 was rejected under 35 U.S.C. §103(a) as being unpatentable over
22 the Bryant reference in view of the Saxon reference and further in view of the
23 Shaylor reference. Because Claim 17 depends from independent Claim 14, the
24 arguments that apply to Claim 14 are also applicable to Claim 17. Thus, for at
25 least these reasons, Applicant respectfully submits that the §103 rejections of

1 Claim 17 is improper, and respectfully requests reconsideration and withdrawal of
2 this rejection.

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4 **Rejection of Claims 28-30**

5 Claims 28, 29, and 30 were rejected under 35 U.S.C. §103(a) as being
6 unpatentable over the Bryant reference in view the Saxon reference, and further in
7 view of the Williams reference. Because Claims 28-30 depend from independent
8 Claim 26, the arguments that apply to Claim 26 are also applicable to Claims 28-
9 30. Thus, for at least these reasons, Applicant respectfully submits that the §103
10 rejections of Claims 28-30 is improper, and respectfully requests reconsideration
11 and withdrawal of this rejection.
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Conclusion

Applicant has considered the other references cited by the Examiner in the Office Action. None of these references appear to affect the patentability of Applicant's claims. By the foregoing remarks, Applicant believes that pending claims 1, 3-8, 10-14, and 16-30 are allowable and the application is in condition for allowance. Therefore, a Notice of Allowance is respectfully requested. Should the Examiner have any further issues regarding this application, the Examiner is requested to contact the undersigned attorney for the Applicant at the telephone number provided below.

Respectfully Submitted,

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